


DCFS INFO MEMO 2006 - 17 August 31, 2006

STATE OF WISCONSIN  
Department of Health and Family Services  
Division of Children and Family Services

To: Area Administrators/ Human Services Area Coordinators  
Bureau Directors  
County Departments of Community Programs Directors  
County Departments of Developmental Disabilities Services Directors  
County Departments of Human Services Directors  
County Departments of Social Services Directors  
Section Chiefs/Licensing Chiefs  
Tribal Chairpersons/Human Services Facilitators

From: Burnie Bridge   
Administrator

Re: 2005 Wisconsin Act 232: Changes to the Definition of Relatives, the Release of Information to Relatives, and Placement of Children with Relatives after Termination of Parental Rights

This memo explains changes made by 2005 Wisconsin Act 232 to the definition of relative, to information that can be shared with relatives, and to the relationship of siblings and other relatives after a termination of parental rights. The changes explained in this memo went into effect April 13, 2006, and initial applicability provisions are explained below.

### The Definition of Relative

Act 232 expands the definition of relative in Chapter 48, Stats., the Children's Code, and Chapter 938, Stats., the Juvenile Justice Code. Previously, the general definition of relative under s. 48.02(15) included: parent, grandparent, great-grandparent, stepparent, brother, sister, first cousin, nephew, niece, uncle or aunt, whether the relationship is by blood, marriage, or adoption.

Act 232 expands this definition to include: stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, second cousin, step-uncle, step-aunt, any person of a preceding generation as denoted by the prefix grand, great, or great-great, and the spouse of any relative, even if the marriage is terminated by death or divorce. This change will provide greater uniformity in child welfare programs and may result in more placements of children with their extended families.

Act 232 also provides three program-specific definitions of relatives.

- ◆ Interstate Compact on the Placement of Children: The list of relatives exempted from the Interstate Compact on the Placement of Children (ICPC) if there is no court involvement in the child's case, remains unchanged [s. 48.988(8) (a), Stats.]. However, for those cases wherein a child is under a court order and the placement with a relative is made under the ICPC, the definition of relative under s. 48.02(15) will be used to determine whether the relative is required to obtain a foster care license. Those relatives identified in the expanded definition in s. 48.02(15) will not be required to obtain a foster care license in order to accept the interstate placement.
- ◆ Kinship Care: The Kinship Care and Long-Term Kinship Care Programs now rely on the expanded general definition of relative under s. 48.02(15), but exclude parents from that definition.
- ◆ Child Care Programs: Child care licensing no longer refers to the general definition of relative as contained in s. 48.02(15), Stats. Instead, s. 48.65(2)(a), Stats., now specifies that only the following relatives do not have to obtain a day care center license: a parent, grandparent, great-grandparent, stepparent, brother, sister, first cousin, nephew, niece, uncle, or aunt of a child, whether by blood, marriage, or legal adoption, who provides care and supervision for the child.

## **Release of Information to Relatives Who Are Providing or May Provide Out-of-Home Care**

Section 48.371, Stats., s. 895.485(4), Stats., and Ch. HFS 37, Adm. Code, currently require agencies to share specified information with licensed foster parents and others who are or potentially may be a placement resource for a child. This information includes: the reason for placement, immediate family members' names and contact information, sibling information, medical information, school information, and information on any behavioral or emotional problems the child has experienced. As explained in s. HFS 37.02(2), Adm. Code, there are limited exceptions that allow agencies to withhold information that may not be available or would not risk harm if withheld, and require the agency to document the reason for withholding the information in the child's case record.

Act 232 now allows the same information be provided to relative caregivers, even if they are not licensed, and allows the information to be provided, at the agency's discretion, before the child is placed. This change first applies to a child or juvenile who is placed in the home of a relative on April 13, 2006. However, for any child who is living in the home of a relative on the day before April 13, 2006, the information should be provided to the relative within 60 days after April 13, 2006.

## **Relationship of Siblings and Relatives after a Termination of Parental Rights**

Under current law, a termination of parental rights order permanently severs all legal rights and duties between the parent whose parental rights were terminated and the child. Act 232 provides that even after a termination of parental rights order is entered, the relationship between the child and his or her siblings is not legally ended until an order of adoption is entered for either child.

In addition, Act 232 clarifies that a relative whose relationship with the child is derived from the parent whose rights are terminated remains a relative post-termination of parental rights for the purposes of placement and permanency planning until the child is adopted. Therefore, when following current law regarding adoptive placements under s. 48.833, Stats., or permanency planning for a child in out-of-home care under ss. 48.38(4) or 938.38(4), Stats., after one or both parent's rights have been terminated, the child's extended birth family must be considered as a placement resource until the child is adopted.

Both the sibling and relative provisions first apply to termination of parental rights orders and adoption orders granted on April 13, 2006.

REGIONAL OFFICE CONTACT: Area Administrator

CENTRAL OFFICE CONTACT: Sarah Kate Johnson  
DHFS/DCFS/BPP  
P.O. Box 8916  
Madison, WI 53708-8916  
Phone: 608-266-6874  
E-mail: [JohnsSK@dfhs.state.wi.us](mailto:JohnsSK@dfhs.state.wi.us)

ICPC CONTACT: Brenda Kritz  
DHFS/DCFS/BPP  
P.O. Box 8916  
Madison, WI 53708-8916  
Phone: 608-267-2075  
E-mail: [KritzBR@dfhs.state.wi.us](mailto:KritzBR@dfhs.state.wi.us)

MEMO WEB SITE: [http://dhfs.wisconsin.gov/dcfs\\_info/](http://dhfs.wisconsin.gov/dcfs_info/)

ACT 232 WEBSITE: <http://www.legis.state.wi.us/2005/data/acts/05Act232.pdf>

Infomemo/dcfs/2006/2005 wi act 232 relatives.doc